

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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MARTIN J. WALSH, Secretary of  
Labor, United States  
Department of Labor,

NO. 2:22-cv-00756 WBS KJN

Plaintiff,

v.

CHE GARIBALDI dba TAQUERIA  
GARIBALDI, a California  
corporation; EDUARDO  
HERNANDEZ, an individual;  
HECTOR MANUAL MARTINEZ  
GALINDO, an individual; and  
ALEJANDRO RODRIGUEZ, an  
individual,

Defendants.

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STATUS (PRETRIAL SCHEDULING) ORDER

A scheduling conference was held on October 24, 2022.  
Jennifer L. Sta.Anna appeared representing plaintiff. Alden  
Parker and Christina Anton appeared representing defendants.

I. SERVICE OF PROCESS

1                   All defendants have been served, and no further service  
2 is permitted without leave of court, good cause having been shown  
3 under Federal Rule of Civil Procedure 16(b).

4                   **II. JOINDER OF PARTIES/AMENDMENTS**

5                   No further joinder of parties or amendments to  
6 pleadings will be permitted except with leave of court, good  
7 cause having been shown under Federal Rule of Civil Procedure  
8 16(b). See Johnson v. Mammoth Recreations, Inc., 975 F.2d 604  
9 (9th Cir. 1992). Any motion to augment the list of names in  
10 Exhibit A to the complaint, (see Docket No. 1 at 11-12), shall be  
11 made by motion pursuant to Section V of this Order.

12                   **III. JURISDICTION/VENUE**

13                   Jurisdiction is predicated upon 28 U.S.C. § 1331 and 28  
14 U.S.C. § 1345 because plaintiff asserts claims arising under the  
15 Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 216, 217, and the  
16 United States Department of Labor is the plaintiff. Venue is  
17 undisputed and hereby found to be proper.

18                   **IV. DISCOVERY**

19                   The parties agree to serve the initial disclosures  
20 required by Federal Rule of Civil Procedure 26(a)(1) on or before  
21 November 21, 2022.

22                   The parties shall disclose experts and produce reports  
23 in accordance with Federal Rule of Civil Procedure 26(a)(2) by no  
24 later than October 17, 2023. With regard to expert testimony  
25 intended solely for rebuttal, those experts shall be disclosed  
26 and reports produced in accordance with Federal Rule of Civil  
27 Procedure 26(a)(2) on or before November 17, 2023.

28                   All discovery, including depositions for preservation

1 of testimony, is left open, save and except that it shall be so  
2 conducted as to be completed by December 18, 2023. The word  
3 "completed" means that all discovery shall have been conducted so  
4 that all depositions have been taken and any disputes relevant to  
5 discovery shall have been resolved by appropriate order if  
6 necessary and, where discovery has been ordered, the order has  
7 been obeyed. All motions to compel discovery must be noticed on  
8 the magistrate judge's calendar in accordance with the local  
9 rules of this court and so that such motions may be heard (and  
10 any resulting orders obeyed) not later than December 18, 2023.

11 V. MOTION HEARING SCHEDULE

12 All motions, except motions for continuances, temporary  
13 restraining orders, or other emergency applications, shall be  
14 filed on or before February 26, 2024. This includes any motion  
15 to augment the list of names in Exhibit A to the complaint, as  
16 discussed previously in Section II. Any motions related to the  
17 informant's privilege or any other claimed privilege shall be  
18 noticed before the undersigned judge rather than the magistrate  
19 judge. All motions shall be noticed for the next available  
20 hearing date. Counsel are cautioned to refer to the local rules  
21 regarding the requirements for noticing and opposing such motions  
22 on the court's regularly scheduled law and motion calendar.

23 VI. FINAL PRETRIAL CONFERENCE

24 The Final Pretrial Conference is set for May 6, 2024,  
25 at 1:30 p.m. in Courtroom No. 5. The conference shall be  
26 attended by at least one of the attorneys who will conduct the  
27 trial for each of the parties and by any unrepresented parties.

28 Counsel for all parties are to be fully prepared for

1 trial at the time of the Pretrial Conference, with no matters  
2 remaining to be accomplished except production of witnesses for  
3 oral testimony. Counsel shall file separate pretrial statements,  
4 and are referred to Local Rules 281 and 282 relating to the  
5 contents of and time for filing those statements. In addition to  
6 those subjects listed in Local Rule 281(b), the parties are to  
7 provide the court with: (1) a plain, concise statement which  
8 identifies every non-discovery motion which has been made to the  
9 court, and its resolution; (2) a list of the remaining claims as  
10 against each defendant; and (3) the estimated number of trial  
11 days.

12 In providing the plain, concise statements of  
13 undisputed facts and disputed factual issues contemplated by  
14 Local Rule 281(b) (3)-(4), the parties shall emphasize the claims  
15 that remain at issue, and any remaining affirmatively pled  
16 defenses thereto. If the case is to be tried to a jury, the  
17 parties shall also prepare a succinct statement of the case,  
18 which is appropriate for the court to read to the jury.

19 **VII. TRIAL SETTING**

20 The jury trial is set for July 9, 2024 at 9:00 a.m. The  
21 parties estimate that the trial will last sixteen days.

22 **VIII. SETTLEMENT CONFERENCE**

23 Any party that would like the action referred to the  
24 court's Voluntary Dispute Resolution Program ("VDRP") shall  
25 inform the court within 30 days of the issuance of this Order.  
26 If all parties are in agreement, the court will refer the action  
27 to VDRP at that time.

28 A Settlement Conference will be set at the time of the

1 Pretrial Conference. All parties should be prepared to advise  
2 the court whether they will stipulate to the trial judge acting  
3 as settlement judge and waive disqualification by virtue thereof.

4 Counsel are instructed to have a principal with full  
5 settlement authority present at the Settlement Conference or to  
6 be fully authorized to settle the matter on any terms. At least  
7 seven calendar days before the Settlement Conference counsel for  
8 each party shall submit a confidential Settlement Conference  
9 Statement for review by the settlement judge. If the settlement  
10 judge is not the trial judge, the Settlement Conference  
11 Statements shall not be filed and will not otherwise be disclosed  
12 to the trial judge.

13 **IX. MODIFICATIONS TO SCHEDULING ORDER**

14 Any requests to modify the dates or terms of this  
15 Scheduling Order, except requests to change the date of the  
16 trial, may be heard and decided by the assigned Magistrate Judge.  
17 All requests to change the trial date shall be heard and decided  
18 only by the undersigned judge.

19 IT IS SO ORDERED.

20 Dated: October 24, 2022

  
WILLIAM B. SHUBB

21 UNITED STATES DISTRICT JUDGE

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